



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-ES(2015)GEN-LI

## LANZAROTE CONVENTION

Council of Europe Convention on the protection of children  
against sexual exploitation and sexual abuse

Replies to the general overview questionnaire

LIECHTENSTEIN

Replies registered by the Secretariat on 4 October 2016

## Foreword

This report adopted by the Government of the Principality of Liechtenstein on 6 September 2016 is being submitted pursuant to Article 41 of the Council of Europe Convention of 25 October 2007 on the Protection of Children against Sexual Exploitation and Sexual Abuse. The report contains replies to the General Overview Questionnaire on the Implementation of the Lanzarote Convention. The report was prepared by the Office for Foreign Affairs in collaboration with the offices of the National Administration responsible for the subject matters covered as well as the Expert Group against the Sexual Abuse of Children and Young People. The report was prepared in accordance with the guidelines set out in document T-ES(2013)02\_en and describes the legislative, administrative, and other measures for implementation of the Lanzarote Convention.

Government of the Principality of Liechtenstein

### Question 1: Definition of “child”

a. *Does the notion of “child” under your internal law correspond to that set out in Article 3, letter (a), i.e. “any person under the age of 18 years”?*

This is the case. The age mentioned above corresponds to the age of majority under civil law, which is 18 years in Liechtenstein. Under the Law on Persons and Companies (*Personen- und Gesellschaftsrecht*, PGR, Liechtenstein Law Gazette LGBl. 1926 No. 4, Articles 11f), every person who has not yet reached the age of 18 is considered underage and thus a child.

The rules are more differentiated under Liechtenstein criminal law: A person is considered underage if the person has not yet reached the age of 14, an adolescent if the person has reached the age of 14 but not yet 18, and a minor if the person has not yet reached the age of 18. The age of consent for the criminal offences covered by the Convention is 18, unless the offences are prosecuted regardless of age, or if the Convention lets the States Parties define the age of consent.

The Children and Youth Act (*Kinder- und Jugendgesetz*, KJG, LGBl. 2009 No. 29, Article 5) also has differentiated rules: Children are defined as persons who have not yet reached the age of 14 years, and adolescents as persons who have reached the age of 14 but not yet 18 years.

In criminal trials, victims who are minors are given the protection required under the Convention for criminal proceedings.

Where “children and adolescents” are referred to in the following, “children” should be understood as persons who have not yet reached the age of 14 and “adolescents” those who have reached the age of 14 but not yet 18. If only “children” are mentioned, this refers to persons who have not yet reached the age of 18.

b. *What legislative or other measures have been taken to ensure that when the age of a victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance provided for children are accorded to him or her in accordance with Article 11, para. 2?*

If there is uncertainty whether a victim is a minor, i.e. if it has not yet reached the age of 18 years, the Liechtenstein National Police assumes that the victim is a minor and makes arrangements accordingly. This means that specially trained investigators are used to question minors, and the investigator is supported by a child psychologist in the case of an 5

especially traumatised victim. The victim protection provisions for minors in criminal trials may also be applied.

The measures provided in the Liechtenstein Victims Assistance Act (*Opferhilfegesetz*, OHG, LGBl. 2007 No. 228) on assistance and support are granted to all persons regardless of age who have been affected directly in their physical, psychological, or sexual integrity.

c. *Please state whether the age for legal sexual activities is below 18 years of age and if so, please specify the age set out in internal law.*

As a rule, the age for legal sexual activities in Liechtenstein is 14 (§§ 205 and 206 of the Criminal Code (*Strafgesetzbuch*, StGB, LGBl. 1988 No. 37) in conjunction with § 74(1)(1) StGB). Mutually consensual sexual activities with younger persons are not punishable if the perpetrator is not more than three years older than the underage person, if the underage person has reached the age of 12, and if the act did not result in death or serious bodily injury (§§ 205 and 206 StGB, paragraphs 3 and 4 of both articles). In contrast, a person is criminally responsible if the person has reached the age of 18 and engages in sexual activities with a person who has not yet reached the age of 16 and for certain reasons is not yet mature enough to understand the activity (§ 208(1)(1) StGB).

## **Question 2: Non-discrimination**

*Is discrimination, on grounds such as the ones mentioned in the indicative list in Article 2, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify. If not, please justify.*

The principle of equal treatment in Liechtenstein is implemented effectively on the basis of the Liechtenstein Constitution (*Landesverfassung*, LV) and international human rights conventions.

The equality of all Liechtenstein citizens before the law is enshrined in Article 31(1) LV. The scope of application of this constitutional article was extended to the equality of women and men in 1992 (para. 2). The rights of foreigners are determined by treaties, or if a treaty does not cover the subject matter, on the basis of reciprocity (para. 3). In a recent judgment (2014/146), the Constitutional Court held, however, that "according to settled case law, the principle of equality set out in Article 31(1) LV applies to foreigners despite the reservation of reciprocity set out in Article 31(3) LV.

Liechtenstein is party to a large number of international human rights conventions. These conventions apply to all persons subject to the sovereignty of a State party. For several of these conventions, Liechtenstein has accepted the individual complaints procedure. The rights guaranteed under these conventions may be asserted in individual complaints proceedings before the Constitutional Court, analogous to the rights guaranteed under the Liechtenstein Constitution. Individual complaints to the Constitutional Court are available to all persons against final decisions or decrees issued by public authorities in the last instance. The Constitutional Court reviews whether rights have been violated that are guaranteed by the Constitution or international conventions for which the legislative power has expressly provided the right of individual complaint according to Article 15 of the Constitutional Court Act (*Staatsgerichtshofgesetz*, StGHG, LGBl. 2004 No. 32). Since accession to the European Convention on Human Rights (ECHR) and the enactment of Article 15(2) StGHG, the fundamental rights set out in the ECHR are regularly asserted in individual complaints to the Constitutional Court, together with the fundamental rights set out in the Liechtenstein Constitution.

### Question 3: Overview of the implementation

Please indicate (without entering into details):

- a. *the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;*

The legislative basis for the protection of children against sexual exploitation and sexual abuse in accordance with the Lanzarote Convention is found primarily in the Liechtenstein Criminal Code (StGB). Sexual criminal law was revised in 2011 and adjusted to the requirements of the Convention. The Criminal Code also contains provisions on the criminal responsibility of legal persons. The Children and Youth Act (KJG) defines the responsibilities of the Office of Social Services as the child and youth authority, and it sets out a reporting obligation for that office if it learns of or has a serious suspicion regarding sexual abuse of children and adolescents. The Children and Youth Act also created the Ombuds Office for Children and Young People as an autonomous, universally accessible contact point for children, young people, and adults on matters affecting children and adolescents. Victim protection in criminal proceedings is set out in the Code of Criminal Procedure (*Strafprozessordnung*, StPO, LGBl. 1988 No. 62) and has been strengthened significantly thanks to revisions in 2004 and 2011. The Victims Assistance Act (*Opferhilfegesetz*, OHG) has been in force since 2008, governing support for persons who have been affected directly in their physical, psychological, or sexual integrity. On the basis of this law, the Victims Assistance Office was established, specialising in assistance and support for victims. The legal foundations for measures to reduce the danger of recurrence of sexual offences against children are laid down in the StPO and the Probation Assistance Act (*Bewährungshilfegesetz*, BewHG, LGBl. 2000 No. 210).

With a view to practical implementation of the protection of children against sexual exploitation and sexual abuse, the aforementioned institutions are supplemented by the interdisciplinary Expert Group against the Sexual Abuse of Children and Young People. Its members are experts in the fields of psychology, psychotherapy, medicine, crisis intervention, and law. The Expert Group offers assistance and counselling for children who are victims of sexual offences as well as for their families and for persons suspecting that sexual abuse of children or adolescents has occurred.

At the Liechtenstein National Police, a female and a male criminal police officer specialise in cases where children and adolescents have become victims of sexual offences. The National Police also maintains an IT forensics unit responsible in part for technical investigations in cases of child pornography on the internet.

- b. *whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;*

There is no national strategy or action plan in a narrow sense in Liechtenstein. In a broader sense, however, the scope of responsibilities of the aforementioned Expert Group against Sexual Abuse of Children and Young People appointed by the Government in 1999 can be seen as an action plan. In 2004, the Expert Group issued Guidelines for Professional Cooperation in Cases of Sexual Abuse of Children and Young People in the Principality of Liechtenstein as a national strategy for dealing with cases of abuse.

Pursuant to its Government mandate, the Expert Group fulfils responsibilities that mostly require ongoing work and revision:

- *Support for experts:* Information and counselling, coordination/networking of the persons involved in a case
- *Anonymous contact point for experts and affected persons:* Counselling for and in support of investigations of suspicions, arrangement of therapies, etc.
- *Provision of continuing education opportunities for experts*
- *Preparation and implementation of concepts for action:* Guidelines for Professional Cooperation, see below
- *Topic-specific public communication*
- *Launch of prevention projects*

The Guidelines for Professional Cooperation in Cases of Sexual Abuse of Children and Young People in the Principality of Liechtenstein form the basis for cooperation among the various institutions and persons involved in a case, as well as for providing a network for support and a uniform approach to cases of sexual abuse. Where sexual abuse is suspected, every professionally qualified institution or person who is approached first by the victim is responsible for convening a case conference. The case conference is a form for exchanging information among experts working with the child or the child's family. Together, decisions are taken on further support measures. The Expert Group must be informed in order to support the convening and execution of the case conference, and in order to coordinate support for the persons affected.

- c. *whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.*

There are no general guidelines in this regard in Liechtenstein. The Children and Youth Act (KJG) does contain the right of children to have their well-being taken into account as a priority in regard to all measures implemented on the basis of the KJG or the associated ordinance. Minors who have been violated in regard to their sexual integrity and who come forth as witnesses must be questioned in a manner so that the parties and their 8 representatives can follow the interview using technical facilities and are able to exercise their right to question the witness without being physically present (§ 115a(2) and 3 StPO). Especially in the case of minors, the interview must be carried out by specialists. Care must also be taken that the victim does not encounter the accused.

#### **Question 4: Child participation**

- a. *Please indicate what steps have been taken to encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children (Article 9, para. 1);*

While there is currently no specific example of the participation of children in the development and implementation of measures to combat sexual exploitation and sexual abuse, children do have legally guaranteed opportunities to participate. For instance, the participation of children and adolescents in social decision-making processes and in matters that especially concern them are enshrined in the Children and Youth Act (KJG). Draft laws that especially concern children and adolescents must be sent to schools so that adolescent students are able to comment on them. The KJG itself was prepared in a participatory process in which both children and adolescents were included alongside adults. The

participation of children and adolescents in decisions concerning them has also been enshrined in the Education Act (*Schulgesetz*, SchulG, LGBl. 1972 No. 7) since 2011.

According to the KJG, the State and the municipalities must develop appropriate participation procedures for children and adolescents, and they must inform the public how they take the interests of children and adolescents into account in specific projects. At the national level, the interests of children and adolescents have been represented by the Children and Youth Advisory Council since 2009. The Advisory Council must be heard by the Government in matters concerning children and adolescents and in regard to political decisions of national importance for children and adolescents. The Advisory Council is composed of the organisations and groups working in the field of children and adolescents, with the goal of including at least one adolescent. Several adolescents are currently represented on the Advisory Council. Indirect participation of children and adolescents is provided by the KJG (Article 96(2)) in the form of the ombudsperson, who advocates to authorities in the interest of children and adolescents and provides mediation when differences of opinion occur.

Youth Participation Liechtenstein (*Jugendbeteiligung Liechtenstein*, JUBEL) offers an opportunity for adolescents at secondary schools to network both among themselves and with decision-makers in politics and business. The Liechtenstein youth information centre "aha – Tips and Info for Young People" is tasked with implementation. In the plenary, interested class speakers meet for thematic workshops and develop specific measures relating to their concerns. The young people then present their project proposals to representatives of politics, business, and youth work as well as other specialists. The "Youth Council Liechtenstein" association (*Jugendrat Liechtenstein*) emerged from JUBEL, with the goal of offering young people a platform to be heard in public.

*b. In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (Article 14, para. 1).*

Both in the preparation of the Victims Assistance Act (OHG) and in the revisions of the Code of Criminal Procedure (StPO), broadly based consultation procedures were carried out to strengthen the protection of victims. In addition to public offices, civil society organisations working in the fields of child care and protection were given the opportunity to influence the legislative process. In this way, the views and needs of child victims were indirectly taken into account.

According to the Guidelines for Professional Cooperation in Cases of Sexual Abuse of Children and Young People in the Principality of Liechtenstein, the measures taken and their consequences must be summarised and documented upon completing the work relating to a case of abuse. At a final conference, the involved institutions and specialists exchange views on improvement proposals. These measures serve to further develop the support concept developed by the Expert Group. The views and needs of child victims may be included in this regard.

#### Question 5: Specialised bodies/mechanisms

*a. Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (Article 10, para. 2, letter (a));*

Under the Children and Youth Act, the Ombuds Office for Children and Young People (*Ombudsstelle für Kinder und Jugendliche*, OSKJ) is responsible for publicising and implementing the rights of the child in Liechtenstein. The OSKJ is an independent, neutral,



and universally accessible contact point and complaints office. Children and adolescents as well as adults may turn to the Ombuds Office with their questions and concerns relating to children and adolescents and obtain information, draw attention to grievances, or receive assistance. The OSKJ offers workshops for children on the rights of the child, provides information on the UN Convention on the Rights of the Child together with groups, organisations, and authorities in Liechtenstein working on children and adolescents, and reviews implementation of that convention. By law, the ombudsperson receives compensation from the State for work and administrative expenses.

Examples of the Ombuds Office's public outreach include the organisation of an event each year on 20 November for Universal Children's Day as well as contributions to the daily newspapers on the activities of the Ombuds Office and the Children's Lobby, a coalition of various institutions working with children and adolescents. For 2016, the Children's Lobby chose the right of the child to protection from violence and abuse as its topic of the year, in the course of which various awareness-raising events and measures will be carried out.

*b. Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (Article 10, para. 2, letter (b));*

The Expert Group against the Sexual Abuse of Children and Young People and the Office of Social Services carry out the stipulated tasks, namely data collection as well as observation and evaluation of the phenomenon of sexual exploitation and sexual abuse of children, within their respective areas of responsibility. The Expert Group maintains case statistics on the suspected cases, and it documents and evaluates the processes for providing assistance. Under the Children and Youth Act, the responsibilities of the Office of Social Services as the child and youth authority include the observation and analysis of national and international developments relating to children and adolescents. Similarly to the Expert Group, the Office of Social Services also publishes its case statistics. The Victims Assistance Office and the National Police likewise maintain statistics.

*c. Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (Article 37, para. 1).*

The Liechtenstein National Police is the national authority responsible for collecting and storing such data. According to the Liechtenstein Police Act (*Polizeigesetz*, PolG, LGBl. 1989 No. 48), the National Police is authorised to conduct identification measures in regard to persons who have been convicted by a final court judgment to an unconditional sentence of imprisonment or against whom a preventive measure under the Criminal Code has been ordered. These identification measures include the recording of fingerprints and palmprints, the collection of comparison samples for the preparation of DNA profiles, the compilation of image material, the determination of external physical characteristics, and the collection of handwriting samples. To fulfil its responsibilities, the National Police maintains electronic information systems which include the identification data obtained using the aforementioned methods, master identity data, information about occurrences (especially administrative and criminal prosecutions and sanctions), as well as search and arrest data. Pursuant to the Agreement between the Principality of Liechtenstein and the Swiss Confederation on Cooperation relating to the Swiss Information Systems for Fingerprints and DNA Profiles (LGBl. 2006/75), the Liechtenstein law enforcement authorities are able to enter and compare the DNA samples collected and the DNA profiles prepared as part of criminal



proceedings using the Swiss system (database).

### **Question 6: National or local coordination, cooperation and partnerships**

- a. *Please describe how coordination on a national or local level is ensured between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children. In particular, please provide information on existing or planned coordination between the education sector, the health sector, the social services and the law enforcement and judicial authorities (Article 10, para. 1);*

As a rule, every authority in Liechtenstein is required to notify the Office of the Public Prosecutor or the National Police if it gains knowledge of a suspicion of a criminal offence subject to *ex officio* prosecution if that offence falls within its legally defined sphere of activity (§ 53(1) StPO). Moreover, the authority must do everything necessary to protect the injured party or other persons from danger (§ 53(3) StPO).

In Liechtenstein, the Office of Social Services and the Expert Group against the Sexual Abuse of Children and Young People are responsible within their areas of competence for coordination among the authorities tasked with the protection of children and the prevention and suppression of sexual exploitation and sexual abuse.

Where the well-being of children is at risk, the Office of Social Services itself serves as the responsible authority. According to the Children and Youth Act (KJG), knowledge and serious suspicion of sexual abuse of children and adolescents constitute a serious endangerment of child welfare and thus are required to be notified to the Office of Social Services. The Office of Social Services, the Office of Education, and other national authorities are required to cooperate and coordinate their actions in order to ensure the well-being of children and adolescents. The authorities must provide each other with assistance and information. This takes account of the importance of networking and joint action when the welfare of children and adolescents is at risk, both in evaluating a situation and in preparing and executing measures. Furthermore, persons involved in child and youth welfare or child and youth work, school and kindergarten teachers, and persons working in health care are required to support the Office of Social Services with their expertise and experience and by participating in clarifications. Under the KJG, persons subject to official or professional secrecy are released from their confidentiality requirements in regard to their reporting obligations, their right to report, and their participation in clarifications.

Under the KJG, the Office of Social Services is also responsible for coordinating the psycho-social services of the private and public institutions of child and youth welfare and child and youth work, as well as for ensuring coordination of the various services, taking account of other private and public offerings for children and adolescents.

In contrast to the Office of Social Services, the Expert Group against the Sexual Abuse of Children and Young People is not directly involved in case management, as it is an advisory body. It accompanies cases and coordinates assistance for the affected persons on the basis of the Guidelines for Professional Cooperation in Cases of Sexual Abuse of Children and Young People in the Principality of Liechtenstein (see reply to question 3.b).

- b. *Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (Article 10, para. 3)? If so, please specify how;*

Within their respective spheres of activity, the Office of Social Services and the Expert Group are responsible for promoting cooperation among the competent public authorities, civil

society, and the private sector, with a view to better preventing and combating sexual exploitation and sexual abuse of children.

- c. *Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (Article 15, para. 2 and Article 16)?*

Intervention measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention are carried out in Liechtenstein pursuant to the provisions of the Code of Criminal Procedure (StPO) and the Probation Assistance Act (BewHG). Under the requirements of a service agreement, the Probation Assistance Association and the Office of Social Affairs cooperate in the care of inmates of the Liechtenstein National Prison and in providing probation and release assistance for convicts granted (early) release. They also work together with the management of the National Prison, the National Police, the Office of the Public Prosecutor, and the competent court.

### **Question 7: International cooperation**

*Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (Article 38, para. 4)? Please give examples.*

International solidarity is one of the central pillars of Liechtenstein's foreign policy. Reducing extreme poverty and economic underdevelopment, which are among the root causes of commercial sexual exploitation of children, are included among the overarching goals of Liechtenstein's International Humanitarian Cooperation and Development (IHCD). In addition to general efforts to combat poverty and underdevelopment, Liechtenstein also funds projects through IHCD to directly prevent human trafficking and to promote the reintegration of victims. In regional and international organisations, Liechtenstein combats the recruitment of child soldiers and advocates for the protection of children from sexual violence and for the punishment of attacks against schools.

## **PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE**

### **Question 8: Education, awareness raising and training**

- a. *Which legislative or other measures have been taken to:*
- *ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (Article 6, Explanatory Report, paras. 59-62). Please also specify whether this information includes the risks of the use of new information and communication technologies (Article 6, Explanatory Report, para. 63);*

The curriculum of Liechtenstein's schools provides for sexual education within the subject area "Humans and the Environment". The pupils get to know the human body and to experience their physical and emotional changes in a positive way. The goal is that they can

use this as a basis for developing their own identity and a stable feeling of self-worth. They learn to recognise the body as the basis of being and to respect their own physical integrity and that of others. Apart from regular sex education, the school classes also take part in special events to improve protection from sexual violence. The Office of Education implements awareness-raising measures for children at different levels of schooling. An example is the interactive project "My body belongs to me!" of the Kinderschutz Schweiz (Child Protection Switzerland) association, which was carried out in Liechtenstein already for the fifth time in 2015. Primary school pupils learn in a playful way to decide for themselves whom they will allow to come close to them and in what way.

In the field of sex education, the "love.li" service of the Sophie von Liechtenstein Foundation for Women and Children and the Bureau for Sexual Matters (fa6) offer counselling, lectures, and workshops and work closely together with schools. The "NetzWerk" association and the "aha – Youth Information Liechtenstein" association also support schools in the fields of prevention and sex education. The "kinderschutz.li" association – which grew out of the Parents' Association – is dedicated to the prevention of violence, mobbing, and abuse. In cooperation with experts in the field, it offers workshops for children, parents, and teachers. Since 2014, the Expert Group on Media Competence has also served as a contact point for dealing with new media and associated phenomena. It organises lectures, parents' evenings, and presentations at schools.

- *encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (Article 5, para. 1);*

In Liechtenstein, the Ombuds Office for Children and Young People is responsible for publicising and monitoring implementation of the rights of children. Through its public outreach, it promotes awareness of the protection and rights of the child (see reply to question 5.a).

- *ensure that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (Article 5, para. 2).*

The responsibilities of the Expert Group against the Sexual Abuse of Children and Young People include organising continuing education events. The Expert Group regularly offers training sessions that contribute to awareness-raising and professionalisation in dealing with cases of suspicion of sexual abuse of children. The events are addressed to a broad range of specialists (Court of Justice, Office of the Public Prosecutor, National Police, Office of Social Services, Office of Education, counselling offices, independent psychotherapists, etc.), and they met with a very positive response. The title of the last continuing education event organised by the Expert Group so far, in May 2014, was "Sexually invasive children and adolescents". The Expert Group plans to carry out another full-day event in the autumn of 2016.

In addition to the interdisciplinary training sessions, the Expert Group has taken measures to inform and raise the awareness of specific groups of professionals. Starting in 2008, awareness-raising activities were carried out for teachers in primary schools, kindergarten teachers, and kindergarten inspectors and were concluded in 2013 with a visit to the last two primary schools. In 2015, the Expert Group made a presentation to the Day Care Association. Presentation rounds are planned at further institutions in the near future. Already in 2008, the Expert Group informed emergency medical personnel about how to deal with suspected cases. Persons working in child care outside the home, youth workers,

and youth leaders are able to participate in the regular interdisciplinary training events held by the Expert Group. For these groups of persons, numerous specific training opportunities are also offered by educational institutions in the region. In November 2013, the Expert Group together with the Liechtenstein Olympic Sports Federation and with the support of the Liechtenstein Football Federation organised a public lecture on the topic of "No Sexual Violence in Sports". In June 2016, the Day Care Association in collaboration with the Expert Group will carry out a full-day training session for day care directors with the goal of raising the awareness of the directors for sexual abuse and of developing internal standards.

As part of its information and awareness-raising work, the Expert Group provides information on the options for reporting suspected cases. In principle, a report can (and in the case of some officials, must) be filed with the police. Persons who have a well-founded suspicion or knowledge of the existence of sexual abuse committed against a child are required to report the case to the Office of Social Services. Anyone suspecting sexual abuse of a child or adolescent may consult the Expert Group to obtain advice on further steps.

At the Liechtenstein National Police, a female and a male criminal police officer specialise in cases where children and adolescents have become victims of sexual offences. These members of the National Police also have completed special training in the questioning of victims who are minors. They participate in special training in Liechtenstein and abroad and are members of the Sexual Offences Working Group of Eastern Switzerland. This working group also carries out case conferences and discusses appropriate approaches to take when dealing with minors who are victims of sexual abuse.

In the course of the implementation of the new Children and Youth Act, the Children and Youth Service Division of the Office of Social Services presented its interventions in the event of endangerment of the welfare of a child. During these presentations, the issue of sexual abuse as a form of endangerment of the welfare of a child was discussed. Presentations were held at school director conferences, as an information event for music teachers, and in a meeting of the group leaders of the Liechtenstein Day Care Association, among others.

*b. Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of sexual exploitation and sexual abuse of children? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (Article 8, para. 1);*

Once again relevant in this context is the Expert Group against the Sexual Abuse of Children and Young People, whose responsibilities include issue-specific public outreach to raise the public's awareness of sexual exploitation and sexual abuse of children and adolescents. The measures of the Expert Group include the publication of newspaper reports and activity reports, inviting the media to continuing education events, distributing and producing a flyer, and managing a website ([www.stopkindsmissbrauch.li](http://www.stopkindsmissbrauch.li)).

As part of its projects on dealing with new media, the Office of Social Services has in recent years also discussed the danger of sexual abuse of children and adolescents as well as child pornography.

The Liechtenstein Children's Lobby has also proclaimed the right of the child to protection from violence and abuse as its theme of the year 2016. Further events are planned, including a series of articles in a Liechtenstein daily newspaper.

- c. *Which legislative or other measures have been taken to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention? If so, please provide details (Article 8, para. 2, Explanatory Report, para. 66).*

Anyone who, in a publication, on the radio, on television, or in another manner accessible to the broader public calls for general disobedience of a law is subject to criminal sanctions in Liechtenstein (§§ 281-282 StGB). The call to disobey a specific law is thus punishable, regardless of the motive. Anyone who in the same way calls for the commission of a punishable offence is also subject to criminal sanctions. This means that solicitation of one of the offences established in accordance with the Lanzarote Convention is prohibited in Liechtenstein.

### **Question 9: Recruitment and screening**

- a. *Which legislative or other measures have been taken to ensure that the conditions for accessing those professions whose exercise implies regular contact with children, ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children? (Article 5, para. 3). Please specify to which professions such measures apply. Please also indicate for how long the criminal record of a person who was convicted for such crimes is kept in your country;*

To prevent persons who have been convicted of acts of sexual exploitation or sexual abuse of children from gaining access to professions involving regular contact with children, either instructions can be issued as part of probation assistance, or the person may be barred from such professions.

If a convicted person is conditionally released from a term of imprisonment due to an act against the sexual self-determination or due to another sexual offence, probation assistance is mandatory in Liechtenstein. Instructions by the court may also be used to enforce distance between the perpetrator and potential victims. In particular, orders to avoid certain places or company may be issued, as well as prohibitions from engaging in certain professions that might provide circumstances enabling the commission of further offences. To monitor compliance with these instructions, the perpetrator is subject to court supervision for the duration of probation. The court may entrust the Probation Assistance Association, the National Police, the Children and Youth Welfare Bureau, or other appropriate institutions to monitor compliance.

In regard to perpetrators who are engaged in or intend to engage in professional or commercial activities or voluntary activities within an association or other institution, where such activities involve the upbringing, education, or supervision of minors, and who have committed a sexual offence to the detriment of a minor, then the Criminal Court may prohibit the person from engaging in that activity or part thereof, if there is danger that they will commit another such offence by taking advantage of an opportunity afforded by the activity. This precondition is fulfilled if the perpetrator has exploited the perpetrator's position in order to commit the offence (e.g., as a teacher against a student), but also if the offence is not directly related to the activity (e.g., an offence perpetrated against the perpetrator's own children) or if the perpetrator is merely in training for such an activity or otherwise intends to engage in it (e.g., as a student at a teacher's college). The prohibition of engaging in an activity is in principle limited to one to five years. Only in very serious cases where there is a particularly great danger can the prohibition be applied indefinitely. According to the Law on the Criminal Register and the Expungement of Criminal Convictions, all final and legally effective convictions must be entered in the Criminal Register. The Office of the Public Prosecutor and the National Police may access the register and monitor who has been prohibited from engaging in an activity, and whether the prohibition is being complied with.



When filling vacancies at the Liechtenstein kindergartens and schools, the Office of Education requires that the applicant provide an extract from the Criminal Register. In care facilities for children and adolescents (living groups, day care facilities, etc.), the Child Care Ordinance (LGBI. 2009/104) requires as a precondition for licensing of the facility that the Office of Social Services, serving as the competent supervision and licensing authority, be provided with an extract from the criminal register of the person directing the facility. Verification of the reputation of the other specialised staff of a facility is the responsibility of the facility operator, in accordance with the guidelines of the Office of Social Services on the licensing and supervision of day care for children outside the home.

*b. Does the screening of candidates apply to voluntary activities (Explanatory Report, para. 57)?*

Both instructions and prohibitions of engaging in an activity may also be issued in regard to voluntary activities. Compliance is monitored by the authorities (see above), and this also ensures screening of candidates by associations and other institutions.

### **Question 10: Preventive intervention programmes or measures**

*a. Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (Article 7, Explanatory Report, para. 64);*

Financing of psychotherapy in Liechtenstein is included in basic health insurance. Persons who fear that they may commit any of the offences established in accordance with the Lanzarote Convention therefore have the possibility to obtain therapeutic support and treatment relatively easily.

*b. Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (Articles 15 to 17). Please indicate in particular:*

- *who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);*

*The following groups of addressees can be distinguished in regard to intervention programmes and measures:*

- *Persons subject to criminal proceedings but not yet in pre-trial detention have access to therapy as outlined in Question 10.a.*
- *Persons in pre-trial detention or serving a sentence of imprisonment of less than two years can benefit from intervention measures in the National Prison.*
- *Convicts with longer sentences of imprisonment serve these sentences in Austrian prisons and receive care there. For (early) releasees, the measures ordered by the courts as well as probation and releasee assistance are relevant.*
- *Children and adolescents who have committed a criminal offence receive the specific forms of support described below.*

For inmates in the National Prison, i.e. persons in pre-trial detention or serving a sentence of imprisonment of up to two years, the Psychiatric-Psychological Service of the Office of



Social Services carries out voluntary psychological consultations nearly every week. In these 18 consultations, individual problems and conflicts are discussed and dealt with. The option also exists of consulting external specialists such as psychiatrists and psychotherapists. The Probation Assistance Association offers social work care for inmates, which also covers releasee care.

As a rule, sentences only up to a length of two years are served in the National Prison. Persons sentenced to more than two years imprisonment for a sexual offence serve their sentence in an institution in Austria pursuant to the Treaty between the Principality of Liechtenstein and the Republic of Austria on the Placement of Prisoners. The execution of sentences in such cases is governed by Austrian law, with expressly defined exceptions. Upon transfer to Austria, sex offenders convicted in Liechtenstein are therefore registered at the Assessment and Evaluation Centre for Violent Criminals and Sex Offenders, just like persons convicted in Austria, where a decision is made on the appropriate form of intervention measures and programmes. The same treatment programmes and forms of psychohygienic and psychotherapeutic treatment are available to them as to persons convicted in Austria.

If a person convicted of an act against sexual self-determination or another sexual offence is conditionally released from imprisonment or a preventive measure associated with deprivation of liberty, probation assistance is mandatory in Liechtenstein. The goal is to enable persons who have been convicted of an offence to lead a life free from crime and punishment. Pursuant to the service agreement concluded with the Office of Social Services, the Probation Assistance Association is responsible for concrete implementation under the supervision of the Office of Social Services.

The courts may also issue instructions, i.e., orders and prohibitions, compliance with which appears likely to prevent the offender from committing further offences. To monitor their behaviour, especially in regard to compliance with such instructions, sex offenders and sexually motivated violent perpetrators are placed under court supervision for a five-year probation period once they are released conditionally. To ensure intensive monitoring, the court may, depending on the type of instruction, entrust the Probation Assistance Association, the National Police, the Children and Youth Welfare Bureau, or other appropriate institutions to monitor compliance with the ordered measures.

The director of the secretariat of the Probation Assistance Association may, in the event of an unconditional release or at the end of the probation period, offer further assistance to the offender on a voluntary basis if further assistance appears necessary or useful to prevent the person from the commission of future offences. The precondition is a request or at least the consent of the person concerned.

The Probation Assistance Association also serves as an institution for release assistance. This means that upon release from prison or a preventive measure associated with the deprivation of liberty, it facilitates the reintegration of offenders in society through a personal relationship of care and support in securing a livelihood. In cooperation with the Office of Social Services and other organisations, the goal is to mitigate the negative effects of ostracism and exclusion, to stabilise the personal psychosocial situation, and to improve social integration. The main purpose of this is to prevent recidivism in a sustainable way.

- *how the appropriate programme or measure is determined for each person;*

The small size of the National Prison makes it possible for the Psychiatric-Psychological Service of the Office of Social Services and the Probation Assistance Association to provide individualised assistance.

The Austrian Federal Law on the Execution of Sentences of Imprisonment and Preventive Measures associated with the Deprivation of Liberty provides that convicts shall be given psychohygienic and psychotherapeutic care if it appears useful in attaining the corrective purpose of the sentence of imprisonment. At the beginning of their sentence, sexual offenders must be registered at the Assessment and Evaluation Centre for Violent Criminals and Sex Offenders, which assesses the convict's dangerousness and risk of recidivism. As appropriate, a thorough clinical examination is carried out. Where necessary, intervention measures during the execution of the sentence are proposed and implemented by the penal institutions wherever possible.

The focus of probation assistance, voluntary further assistance, and release assistance is on establishing a relationship of care. The goal is to provide counselling and support to clients in their everyday problems in order to prevent recidivism.

When assessing the necessity (i.e. if a repeat offence would otherwise be probable) or usefulness (i.e. if resocialisation of the offender is facilitated) of concrete measures, the focus is on the offender as a person, especially the offender's past life and immediate environment, the type of offence committed, and the connection between that offence and the enumerated factors influencing the personality of the offender.

- *whether there are specific programmes for young offenders;*

Specific provisions are contained in the Juvenile Court Act (*Jugendgerichtsgesetz, JGG*, LGBl. 1988 No. 39) and the Children and Youth Act (*KJG*) setting out how to deal with children and adolescents who have committed a criminal offence. Underage persons, who are defined in the JGG as persons under the age of 14, are not criminally responsible if they have committed a punishable act, but educational measures that are necessary or possible and appropriate under the circumstances may be ordered as a remedy. For the prosecution of criminal offences by adolescents, which the Juvenile Court Act defines as persons between the ages of 14 and 18, the general criminal laws apply, unless otherwise specified in the Juvenile Court Act or the adolescent is not criminally responsible due to a lack of maturity. If an adolescent who has committed a criminal offence against sexual self-determination or another sexual offence is found guilty with punishment reserved, then probation assistance is mandatory. The same is true when an adolescent sexual offender is released conditionally from a custodial sentence.

In the administration of juvenile justice, not only the concerns of criminal justice must be taken into account, but also the concerns of child and adolescent welfare. In that sense, children and adolescents who have committed a punishable offence must be supported with appropriate measures, especially pedagogical-therapeutic measures, to prevent the commission of further offences and an antisocial development. For this purpose, the Office of Social Services, the National Police, the Office of the Public Prosecutor, the Court of Justice, and the Probation Assistance Association are required to work together. When the circumstances and the type of offence indicate a personality disorder, social problems, or problems in the family, school, or job, the Office of Social Services makes the necessary 20 clarifications, communicates the results to the Office of the Public Prosecutor or the Court of Justice, and recommends measures.

- *whether persons have a right to refuse the proposed programme/measures?*

The persons concerned decide whether to avail themselves of the consultation with the Psychiatric-Psychological Service. With regard to the programmes for sex offenders conducted in the Austrian prisons, the consent of the person concerned is required for assistance or treatment. With regard to instructions issued in the context of probation assistance to undergo withdrawal treatment, psychotherapeutic treatment, or other medical

treatment, the consent of the offender is required. The possibility therefore exists to reject specific measures, even though the Probation Assistance Association is required to accompany conditionally released sex offenders.

### **Question 11: Participation of the private sector, the media and civil society**

*What steps have been taken to encourage:*

- a. *the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (Article 9, para. 2, Explanatory Report, paras. 68-73);*

To the extent possible, the Expert Group against the Sexual Abuse of Children and Young People is responsible for encouraging the private sector to participate in the prevention of sexual exploitation and sexual abuse, especially by hosting regular interdisciplinary continuing education events.

- b. *the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (Article 9, para. 3, Explanatory Report, para. 74);*

The Expert Group against the Sexual Abuse of Children and Young People invites media representatives to its interdisciplinary continuing education events, responds to media enquiries, and presents its activity reports in the media.

- c. *the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (Article 9, para. 4, Explanatory Report, para. 75). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (Article 27, para. 5, Explanatory Report, para. 193).*

In Liechtenstein, non-governmental organisations in principle have the possibility to receive financial contributions from the Government. For instance, the Telephone Helpline for Children and Adolescents in Liechtenstein (see reply to question 14) receives financial support. The State also supports projects of the Parent-Child Forum, which offers courses and programmes relating to parental education and child-raising.

The provisions on forfeiture of gains set out in the Liechtenstein Criminal Code enable assets to be confiscated from a perpetrator that were obtained through criminal offences.

### **Question 12: Effectiveness of preventive measures and programmes**

- a. *Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;*

Evaluations of the effectiveness of preventive programmes and projects for children and adolescents as well as their participation opportunities are not carried out in Liechtenstein, as this is difficult given the small size of the country. In terms of content, Liechtenstein usually considers the practices of neighbouring countries as well as their specialised

experiences and insights in this field. An example is the interactive exhibition "My body belongs to me!" of the Kinderschutz Schweiz (Child Protection Switzerland) association, which comes to Liechtenstein annually.

With respect to the effectiveness of measures in the execution of sentences, the Austrian effectiveness analysis is relevant, given that extended prison sentences are served in Austria, as mentioned above. The analysis concludes that the measures in Austrian execution of sentences since 2002 (establishment of an assessment centre, consistent training of corrections officers, assistance and treatment in prison and after release) have resulted in a demonstrable reduction in both the rate and speed of recidivism of sex offenders, in particular of perpetrators who have sexually abused children.

*b. Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.*

Point 8 enumerates all major organisations working in Liechtenstein that perform prevention work in the field of sexual exploitation and sexual abuse and that have proven their effectiveness in practice.

## PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN VICTIMS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

### Question 13: Reporting suspicion of sexual exploitation or sexual abuse

*a. Are professionals working in contact with children bound by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Please indicate the criteria or guidelines which allow for the waiving of confidentiality rules (Article 12, para. 1, Explanatory report, para. 89);*

According to Article 53(1) of the Code of Criminal Procedure (StPO), every authority in the country is required to report criminal offences that affect their legal scope of competence. Moreover, according to Article 20(1) of the Children and Youth Act (KJG), persons with a well-founded suspicion of a serious violation or endangerment of the well-being of children and adolescents or with knowledge thereof are required to report the suspicion to the Office of Social Services. In addition to abuse and other serious forms of violence, serious neglect, the threat of forced marriage, squalor, and substance addiction, sexual abuse is explicitly listed as a case of serious injury or threat to the welfare of children and adolescents. Anyone failing to meet the reporting obligation is criminally responsible (Article 101(b) KJG). Anyone with a well-founded suspicion or knowledge of a less serious violation or endangerment of the well-being of children or adolescents is entitled to report to the Office of Social Services (Article 20(2) KJG). Persons subject to official or professional secrecy are released from their confidentiality requirements in regard to their reporting obligations and their right to report under Article 20 KJG (Article 22 KJG).

*b. Are there any rules encouraging any person who knows about or suspects, in good faith, sexual exploitation and sexual abuse of children to report the facts to the competent authorities? If so, please specify under which conditions and to which authorities (Article 12, para. 2, Explanatory Report, para. 91). Please provide examples of good practice.*

The Expert Group against the Sexual Abuse of Children and Young People meets this responsibility by carrying out awareness-raising campaigns. Anyone with a suspicion of sexual abuse of children or young people may consult the Expert Group anonymously and receive consultation and support for further steps.

#### **Question 14: Helplines**

*Which legislative or other measures have been taken to encourage and support the setting up of information services, such as telephone or internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity? (Article 13, Explanatory Report, para. 92).*

Several public institutions in Liechtenstein have a legal mandate to provide counselling to children. The Expert Group against the Sexual Abuse of Children and Young People offers anonymous assistance and counselling for children and adolescents who are victims of 23 sexual offences as well as for their family members. Persons seeking advice may turn to the Expert Group by telephone or e-mail.

Children and adolescents may also call upon the Office of Social Services for counselling. This is possible even without the knowledge of the child's or adolescent's guardians if the counselling is necessitated by an emergency or conflict situation and if notification of the guardians would defeat the purpose of the counselling.

Another contact point is the Ombuds Office for Children and Young People (OSKJ). Persons seeking advice may contact the Ombuds Office by telephone, text message, or e-mail. Persons seeking advice may also obtain information at [www.oksj.li](http://www.oksj.li) about children's rights, the OSKJ, and the Liechtenstein Children's Lobby.

The Telephone Helpline for Children and Adolescents in Liechtenstein is another contact point for questions and problems, supported by an NGO. The counsellors are available around the clock at the free telephone number 147. As a rule, both the calling person and the counsellor remain anonymous. The Government provides financial support for this counselling institution.

#### **Question 15: Assistance to victims**

*a. Please indicate which types of assistance described in Article 14 are provided to victims of sexual exploitation and sexual abuse of children. (Explanatory Report paras. 93-100)*

This type of assistance is the responsibility of the Office of Social Services on the basis of the Children and Youth Act (KJG) as well as of the Victims Assistance Office on the basis of the Victims Assistance Act (OHG).

Children and adolescents, their parents, and other attachment figures have a right to assistance referred to in Chapter II, Section B of the KJG (e.g., therapy, placement in appropriate institutions, participation in training and employment programmes, work and integration projects), within the scope of application of child and youth welfare as defined in Article 7 KJG. According to Article 7(f) KJG, this scope includes cases of violence, physical or emotional mistreatment, sexual abuse, or other sexual offences against children and adolescents. Subject to the competence of the Court of Justice, execution of child and youth welfare is the responsibility of the Office of Social Services (Article 9(1) KJG). The Office of Social Services is primarily responsible for official measures, especially relating to child protection. As a rule, the Office of Social Services deals with a case before the Victims Assistance Office does, often initially as part of a clarification of suspicion.

The Victims Assistance Office, which was established to implement victims assistance and is functionally independent, is mandated under the Victims Assistance Act (OHG) to help persons who have been affected directly in their physical, psychological, or sexual integrity (victims as defined in Article 1(1) OHG). Moreover, family members of victims (Article 1(2) OHG) and persons who have been affected directly in their physical or psychological integrity due to successful or attempted assistance rendered to victims as well as their family members (Article 1(3) OHG) are entitled to victims assistance. The Victims Assistance Office provides or – if it is unable to do so itself – arranges the medical, psychological, social, material, and legal assistance necessary (Article 14(1) OHG). The Victims Assistance Office 24 ensures round-the-clock assistance for the most urgent needs as a consequence of the offence (unpostponable assistance), and it renders any additional necessary assistance until the health of the person concerned has stabilised and the other consequences of the offence have been eliminated or compensated to the extent possible (longer-term assistance, Article 13 OHG). According to Article 12 OHG, the victim and the victim's family members are counselled by the Victims Assistance Office or by a specialist mandated by the Office, supported in the exercise of their rights, and informed of the rights and duties of the victim in the proceedings and about the progress of the proceedings. If necessary, the Victims Assistance Office ensures that victims are accompanied or that they are represented by authorised persons in court (Article 12(2) OHG, §§ 31a(2) and 34 StPO).

If the victim does not receive any compensation for damages from the perpetrator or third parties (e.g., insurance companies), the OHG enables the victim to receive compensation from the State for material and immaterial damage (Articles 18-24 OHG). By compensating immaterial damage, recognition of the difficult situation of the victim is expressed by the community in the sense of comprehensive protection of victims. Moreover, the interests of victims of sexual offences are taken into account, given that they are generally more likely to suffer serious immaterial damage rather than material damage. Unlike in the case of compensation for pecuniary damage, compensation for immaterial damage does not depend on the income of the victim.

*Please specify:*

- *how the assistance is adapted to the victims' age and maturity;*
- *how due account is taken of the child's views, needs and concerns;*
- *if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.*

The goal is for the affected children and adolescents to receive assistance appropriate to their age, maturity, and needs. The staff members of the Children and Youth Service Division of the Office of Social Services are specialists in the fields of education, social work, and psychology. As needed, they help the affected persons find or arrange appropriate assistance. The Office of Social Services may also provide subsidiary funding for additional assistance.

Family members of victims (Article 1(2) OHG) as well as persons who have been affected directly in their physical or psychological integrity due to successful or attempted assistance rendered to victims and their family members (Article 1(3) OHG) also have a right to victims assistance.

For situations immediately following extreme and distressing incidents – including sexual abuse or the discovery of abuse –, a Crisis Intervention Team (*Kriseninterventionsteam*, KIT) exists in Liechtenstein that is available round the clock. The KIT supports and counsels both affected persons and family members who have experienced extreme and distressing situations in the first few hours following the incident, and – where necessary and desired – it organises additional assistance. The KIT has a close network with authorities such as the 25



police and the Office of Social Services. Support and counselling is provided by the KIT free of charge.

b. *Please specify if and to what extent internal law provides for the possibility of removing (Article 14, para. 3, Explanatory Report, para. 99):*

- *the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;*

In regard to the removal of the suspect from the environment of a child, § 131(2)(3) StPO provides the possibility of ordering pre-trial detention if there is danger that an offence will be committed. As an alternative, Article 24g(1) of the Law on the National Police (Police Act, *Polizeigesetz*, PolG, LGBl. 2007 No. 191), expulsion from the dwelling where the endangered person lives and from that person's immediate surroundings as well as a prohibition of re-entry may be ordered. If absolutely necessary, a prohibition against being present at other designated locations may be ordered as well (Article 24g(2) PolG). The precondition for this measure is that on the basis of certain facts, especially a prior dangerous attack, it must be assumed that a dangerous attack against life, health, or freedom is imminent (Article 24g(1) PolG).

The court may also issue an interim injunction to take measures to protect against violence in the family. A suspect may for instance be ordered to leave the dwelling and its immediate surroundings, or the suspect may be prohibited from being present at designated locations or from meeting or entering into contact with the child (Article 277a of the Enforcement Act, *Exekutionsordnung*, EO; LGBl. 1971 No. 32/2).

The StPO also provides for the placement of mentally ill offenders or dangerous repeat offenders in appropriate institutions or custody (§ 340 et seq. StPO).

- *the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.*

Irrespective of whether a criminal offence has been committed, the court must make the arrangements necessary to ensure the welfare of a minor if the parents or grandparents endanger the child's welfare through their behaviour. This includes measures to remove the child from its environment (§ 176(1) General Civil Code, *Allgemeines Bürgerliches Gesetzbuch*, ABGB; LGBl. 1003 No. 1). § 176a ABGB specifies that the court must assign full or partial custody of the child to the Office of Social Services if the welfare of the child is in danger and hence the outright removal from the child's existing surroundings, against the will of the guardians, is necessary, but placement with relatives or other appropriate close persons is not possible.

Removal of the victim from the family environment against the will of the victim and the victim's guardians is possible if the welfare of the child or adolescent is in serious danger and adequate help cannot otherwise be provided (Article 25(1) KJG). Articles 25 to 29 KJG govern placement of the child in appropriate institutions. If there is imminent danger, the Office of Social Services must order immediate placement or retention in an appropriate institution and notify the Court of Justice accordingly (Article 28(1) KJG). According to § 215 ABGB, the Office of Social Services may apply for judicial orders relating to custody in order to ensure the welfare of a minor. If there is imminent danger, the Office of Social Services may take the necessary child-care and child-raising measures as a special guardian on a temporary basis with effect until the court has decided under the condition that it immediately and in any event within eight days applies for the necessary court orders.

c. *If internal law does provide for this:*

- *are the conditions and duration of such removal to be determined in accordance with the best interests of the child?*

See above.

- *are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (Article 11, Explanatory Report, paras. 87-88).*

See above.

d. *Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (Article 38, para. 2, Explanatory Report, paras. 258-259).*

As part of its ratification of the Lanzarote Convention, the Liechtenstein Parliament unanimously decided to expand Liechtenstein's jurisdiction to include offences committed abroad. This amendment entered into force on 1 January 2016. § 64(1) StGB covers offences abroad to which Liechtenstein criminal laws apply, irrespective of the legal situation in the place where the offence was committed. In addition to cases in which the perpetrator or the victim is a Liechtenstein citizen or their residence or habitual abode is in Liechtenstein, this also applies to cases in which the offence violates other Liechtenstein interests or in which the perpetrator was a foreigner at the time of the offence, is currently in Liechtenstein, and cannot be extradited.

The list of offences set out in § 64(1)(4a) StGB includes serious sexual abuse of underage persons (§ 205), sexual abuse of underage persons (§ 206), moral endangerment of underage or adolescent persons (§ 207), sexual abuse of minors (§ 208), initiation of sexual contact with underage persons (§ 209), immoral influencing of underage persons (§ 209a), arrangement of sexual contact with minors against payment (§ 214), promotion of prostitution and pornographic performances involving minors (§ 215a), cross-border prostitution trade (§ 217) and pornographic depictions of minors (§ 219). Since 1 January 2016, the following offences are likewise covered by § 64(1)(4a) StGB: genital mutilation (§ 90(3)), kidnapping for ransom (§ 102), delivery to a foreign power (§ 103), slave trade (§ 104), human trafficking (§ 104a), coerced marriage and other cases of serious coercion (§ 106(1)(3)), prohibited arrangement of adoptions (§ 193a), rape (§ 200), sexual coercion (§ 201), sexual abuse of a defenceless or mentally impaired person (§ 204), abuse of a position of authority (§ 212(1)), and cross-border prostitution trade (§ 217).

In Liechtenstein, the criminal laws apply to offences other than those referred to in §§ 63 and 64 StGB that have been committed abroad, provided that the offences are also punishable under the laws of the place where they have been committed, if the perpetrator was a Liechtenstein citizen at the time of the commission or if the perpetrator acquired Liechtenstein citizenship at a later time and still holds Liechtenstein citizenship at the time the criminal proceedings are initiated.

## PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

### Question 16: Criminal law offences

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;

#### **Sexual Abuse (Article 18)**

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
  - use is made of coercion, force or threats;
  - abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
  - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

#### **Child Prostitution (Article 19)**

1. Recruiting a child into prostitution or causing a child to participate in prostitution;
2. Coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
3. Having recourse to child prostitution.

#### **Child Pornography (Article 20)**

1. Producing child pornography;
2. Offering or making available child pornography;
3. Distributing or transmitting child pornography;
4. Procuring child pornography for oneself or for another person;
5. Possessing child pornography;
6. Knowingly obtaining access, through information and communication technologies, to child pornography.

#### **Participation of a Child in Pornographic Performances (Article 21)**

1. Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
2. Coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes
3. Knowingly attending pornographic performances involving the participation of children.

#### **Corruption of Children (Article 22)**

The intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate.

#### **Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)**

The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age for sexual activities as established by internal law, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting.

#### **Aiding or abetting and attempt (Article 24)**

1. Intentionally aiding or abetting the commission of any of the above offences.
2. The attempt to commit any of the above offences.

All the intentional conducts in the box above are criminal offences in Liechtenstein under the Criminal Code (StGB).

### **Sexual Abuse (Article 18)**

Under these provisions, both serious sexual abuse (§ 205 StGB) and sexual abuse of underage persons (§ 206 StGB) are punishable. The age of sexual consent is not explicitly 29 defined under Liechtenstein criminal law, but the following can be derived from §§ 205 and 206 StGB in conjunction with § 74(1)(1) StGB: Anyone is criminally responsible who engages in a sexual act with an underage person, where underage is below the age of 14. Sexual acts are not punishable if the perpetrator is not more than three years older than the underage person, if that person has reached the age of 12, and if the act did not result in death or serious bodily injury (§§ 205 and 206 StGB, paragraphs 3 and 4 of both articles). This also satisfies Article 18, paragraph 3 of the Convention, according to which the provisions of Article 18, paragraph 1, letter (a) of the Convention are not intended to govern consensual sexual activities between minors.

Under Article 18, paragraph 1, letter (b) of the Convention, the following sexual activities with a child are to be criminalised in the domestic law of the States Parties:

- *Sexual activities through coercion, force, or threats:* Irrespective of the age of the injured party, such acts are punishable under §§ 200 and 201 StGB.
- *Abuse of a recognised position of trust, authority, or influence over the child, including within the family:* Abuse of a relationship of authority is punishable under § 212 StGB, paragraph 1 of which also refers to the special domain of abuse within the family.
- Abuse of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence: This provision of the Convention is covered by §§ 204, 208, and 212 StGB. § 204 StGB punishes sexual abuse of defenceless or mentally impaired persons. § 212(1) StGB mentioned above criminalises sexual violence against minors by exploiting a position that the perpetrator holds in relation to the victim. § 212(2) StGB also prohibits sexual abuse by exploiting certain situations irrespective of the age of the victim, such as in the case of dependence due to emergency or distress or due to an employment relationship. On a supplemental basis, § 208(1)(1) StGB criminalises sexual acts by a person who has reached the age of 18 with a person who has not yet reached the age of 16 and for certain reasons is not yet mature enough to understand the activity. § 208(1)(2) StGB also punishes a person who has reached the age of 18 and engages in sexual acts with a person who has not reached the age of 16 by exploiting an emergency or distress.

### **Child Prostitution (Article 19)**

Liechtenstein criminal law comprehensively criminalises offenses relating to child prostitution. For the special protection of minors from sexual exploitation, there is a criminal offence directed against the promotion of prostitution and the making of profits from prostitution. Under § 215a(1) StGB, the solicitation, offering, or arranging of a minor for the purposes of prostitution as well as the exploitation of a minor person who engages in prostitution, with the intent to gain a pecuniary advantage for oneself or a third party, is punishable. A pecuniary advantage may consist in monetary payment, but also tangibles such as room and board.

§ 214 StGB governs the arrangement of sexual contacts with minors against payment and serves as an umbrella offence, so that minors can be protected from prostitution or exploitation already at an early stage, supplementing § 215a StGB. The arrangement of a minor for the purposes of sexual activities in the context of an authority relationship (procuring) is criminalised by § 213 StGB.

With regard to recourse to child prostitution, any sexual activities with persons under the age of 14 are punishable under §§ 205 and 206 StGB, irrespective of whether the child is engaged in prostitution or not (see above). § 208(2) StGB criminalises recourse to prostitution of persons who have not reached the age of 18 (sexual abuse against payment).

### **Child Pornography (Article 20)**

§ 219(1) and (2) StGB lays down an absolute prohibition on the circulation of pornographic depictions of minors: The offence defined in paragraph 1 criminalises the production, acquisition, or possession of pornographic depictions of a minor as well as offering such depictions to a third party, procuring them for a third party, leaving them to a third party, or otherwise presenting them or making them accessible to a third party. According to paragraph 2, the production, import, transport, or export of pornographic depictions of minors for the purpose of dissemination as well as commission of the offences set out in paragraph 1 on a commercial basis are punishable. Moreover, § 219(4) StGB also criminalises access to pornographic depictions of minors with the help of information and communication technology, if such access occurs knowingly. This already criminalises the viewing of certain internet content by accessing relevant websites, if such access occurs knowingly, without having to additionally save the content on data carriers.

Article 20, paragraph 2 of the Convention defines child pornography as "any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes". The definition of pornographic depictions of minors in § 219(5) StGB is compatible with this provision. No distinction is made among real pornography, simulated pornography, and virtual pornography, and the criterion of a realistic style also does not have to be met, which is why all real or entirely artificial depictions made on a computer such as photographs, slides, other images and films, comics, animated films, CD-ROMs, DVDs, computer games and the like are covered by the offence of pornographic depictions of minors. The criterion for distinguishing pornographic from non-pornographic images or visual depictions is defined in Liechtenstein criminal law such that "pornographic" refers to images and visual depictions that are for their own sake, are detached from other expressions of life, and serve to sexually stimulate the viewer.

According to Article 20, paragraph 3, second indent of the Convention, States Parties to the Convention may refrain from criminalising the production and possession of pornographic material if persons are depicted who have reached the age set in application of Article 18, paragraph 2, where these images are produced and possessed by them with their consent and solely for their own private use. In Liechtenstein, the punishability of the production and possession of pornographic material is limited in this way by § 219(6) StGB.

### **Participation of a Child in Pornographic Performances (Article 21)**

According to § 215a(1) StGB, the solicitation, offering, or arranging of a minor for the purposes of participation in a pornographic performance and the exploitation of a minor participating in a pornographic performance, with the intent to gain a pecuniary advantage for oneself or a third party, is punishable. Knowingly attending pornographic performances involving the participation of minors is criminalised in § 215a(4) StGB. Liechtenstein law does not limit criminal responsibility in the manner set out in Article 21, paragraph 2 of the Convention.

### **Corruption of Children (Article 22)**

§ 203(1) StGB criminalises sexual harassment – whether physically by engaging in an unwanted sexual act in front of the victim or verbally. It is irrelevant in this regard whether the harassment is direct or indirect with the help of information or communication technologies. The immoral influencing of underage persons in one of the aforementioned ways is

considered an especially serious case of sexual harassment under § 203(2) StGB and subject to a strict sanction. Satisfaction of the elements of the offence does not require participation of the underage person in the sexual acts.

With § 209a StGB, the immoral influencing of underage persons is also criminalised as interference with the sexual integrity of the underage victim. Interference giving rise to criminal responsibility exists already by engaging in sexual acts that occur in the presence of the underage person on sexual grounds. The acts must be of certain significance in regard to the legally protected right, and they must also be perceived by the underage person.

Complementing this, § 207 StGB protects underage persons from moral endangerment. Under this provision, anyone is criminally responsible who engages in an act in front of an underage person in order to sexually arouse or satisfy himself or a third party, where that act is likely to endanger the underage person's moral, emotional, or health development. Both acts that are engaged in directly in front of the victim as well as those mediated by media are covered by the provision. To satisfy the elements of the offence, persons above the age of 14 must be subject to the upbringing, education, or supervision of the perpetrator.

### **Solicitation of Children for Sexual Purposes ("grooming") (Article 23)**

§ 209 StGB protects underage children from this danger associated with internet use by laying down dissuasive sanctions for persons who, with the help of information or communication technologies, propose personal contact with an underage person for the purpose of sexually abusing the underage person or producing child pornography. To give rise to criminal responsibility under § 209 StGB, the intent of the perpetrator (§ 5(1) StGB) to commit a criminal offence referred to in §§ 205, 206 or 219(1)(1) StGB must have been manifested in a preparatory act that aims to achieve a meeting with the child. Conceivable in this context is especially that the perpetrator has already arranged a specific meeting point with the underage victim or has promised special incentives if they meet. Intention is not required as the perpetrator's *mens rea*; rather, the more easily provable *dolus eventualis* in regard to all elements of the offence suffices.

### **Aiding or abetting and attempt (Article 24)**

This provision is taken into account in Liechtenstein, given that under § 12 StGB, not only the immediate perpetrator is deemed to have committed the offence, but also every person who has directed another person to commit the offence or otherwise contributes to the commission thereof. Moreover, the sanctions for wilful acts under § 15 StGB not only apply to a completed offence, but also to an attempt and to any participation in an attempt.

*b. Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;*

No deviations from the Lanzarote Convention.

*c. Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;*

Incest § 211, procuring § 213, arrangement of sexual contact with minors against payment § 214, cross-border prostitution trade § 217.



d. *Please also specify whether the age of a child plays a role in determining the gravity of the offence.*

The age of a child plays a role insofar as various offences refer to age or to the categories of underage, adolescent, and minor. Examples include sexual abuse of underage persons under § 206 StGB (a person is underage who has not reached the age of 14), moral endangerment of underage persons or adolescents under § 207 StGB (a person is adolescent who has reached the age of 14 but not yet 18), and sexual abuse of minors (a person is a minor who has not yet reached the age of 18). The various offences have varying sanctions, but they do not explicitly rely on whether the child is, for instance, five or ten. However, this fact may be (and is) taken into account when assessing aggravating circumstances in accordance with § 33 StGB: The enumeration of these aggravating circumstances is not exhaustive, which means that the age of the victim may be considered as an aggravating circumstance. Moreover, § 33(7) StGB explicitly mentions taking advantage of the defencelessness and helplessness of another person as an aggravating circumstance.

### **Question 17: Corporate liability**

*Does your system provide that a legal person may be held liable for an offence established in accordance with Article 26? Please specify under which conditions.*

Under Article 26 of the Convention, legal persons shall be held liable for offences established in accordance with the Convention that are committed for their benefit by any natural person who has a leading position within the legal person (Article 26, paragraph 1 of the Convention). Liability may be criminal, civil, or administrative (Article 26, paragraph 3 of the Convention).

Section 9 of the Liechtenstein Criminal Code on the "Responsibility of Legal Persons" (§§ 74a to 74g StGB) defines the group of addressees, the scope of application and validity, and the preconditions for the responsibility of legal persons and the applicable sanctions. According to § 74a(1) StGB, legal persons are responsible for crimes and misdemeanours committed in the course of business falling within the purpose of the legal person (predicate offence), if the offence is culpably committed by leading persons as such in a manner contrary to law. § 74a(3) StGB defines "leading persons" in a manner compatible with Article 26, paragraph 1 of the Convention.

According to Article 26, paragraph 2 of the Convention, the legal person shall also be held liable where the lack of supervision or control by a leading person has made possible the commission of an offence established in accordance with the Convention for the benefit of that legal person by a natural person acting under its authority. This provision is reflected in § 74a(4) StGB, which governs the responsibility of legal persons in all cases where an employee commits an offence, the commission of which is facilitated or made possible by the failure of leading persons to take necessary and reasonable measures to prevent such predicate offences.

According to Article 26, paragraph 4 of the Convention, the liability of legal persons shall be without prejudice to the criminal liability of the natural persons who have committed the offence. Under § 74a(5) StGB, the responsibility of the legal person for the predicate offence does not exclude the criminal responsibility of leading persons or employees for the same offence.

## Question 18: Sanctions and measures

- a. Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (Article 27, Explanatory Report, paras. 182-193);

With the exception of moral endangerment (§ 207 StGB, imprisonment of up to one year), the maximum sanction for the relevant offences is imprisonment of more than one year. A precondition for extradition for the purpose of prosecution is that an offence must be punishable under Liechtenstein law with more than one year of imprisonment (Article 11(1) of the Mutual Legal Assistance Act, *Rechtshilfegesetz*, RHG; LGBl. 2000 No. 215). It should also be noted that the sanctions are graduated by severity depending on the age of the victim, thus reflecting the degree of wrongfulness of the act.

The obligation set out in Article 27, paragraph 2 of the Convention to provide for effective, proportionate, and dissuasive sanctions for legal persons, which shall include monetary criminal or non-criminal fines and may include other measures, is met by the corporate monetary penalty set out in § 74b StGB. This provides for monetary fines under a daily rate system, where the daily rate is determined by the income situation of the legal person and has a lower limit of CHF 15,000. The number of daily rates is determined by the gravity of the offence in question.

In Article 27, paragraph 3, letter (a) of the Convention, the States Parties oblige themselves to take the necessary legislative or other measures to provide for the seizure and confiscation of instrumentalities used to commit the offences established in accordance with the Convention as well as proceeds derived from such offences or property the value of which corresponds to such proceeds. In Liechtenstein, § 26 StGB provides for the confiscation of objects which the perpetrator used to commit the punishable act, or which were designated for use in the commission of an offence, or which arose from the offence. Forfeiture of gains as set out in § 20 StGB permits the confiscation of assets from the perpetrator that the perpetrator obtained through the offence. The preconditions for the forfeiture of assets are set out in § 20b StGB.

According to Article 27, paragraph 3, letter (b) of the Convention, the States Parties must enable the temporary or permanent closure of any establishment used to carry out any of the described offences. One possibility for closing operations is provided on the basis of the Commerce Act (*Gewerbegesetz*, GewG; LGBl. 2006 No. 184). According to Article 2(1) GewG, the Commerce Act applies to all commercially run activities that are not prohibited by law, subject to Article 3 (exceptions to the scope of application). If the owner of a business carries out an illegal activity alongside their permissible business activity – e.g. a bar owner facilitates the prostitution of minors in the bar or even offers minors for prostitution – then Article 19(a) GewG permits withdrawal of the business licence. The preconditions for granting the licence are thus no longer met, because there are reasons giving rise to serious doubts concerning reliability (Article 9(1)(c) GewG). After withdrawing the licence, the Office of Economic Affairs may order closure of the operation in accordance with Article 29a GewG.

Article 124 of the Law on Persons and Companies (PGR) provides for the revocation of legal capacity and the dissolution of legal persons that pursue an unlawful or immoral purpose. The offences falling within the scope of the Convention are always unlawful and immoral. Precautionary measures to prevent further wrongs may be taken already before the final decision on dissolution of a legal person has been made (Article 124(2) PGR). This expressly includes suspension of business operations. The closure of premises can also be seen as such a precautionary measure. Furthermore, Article 971(1)(5) PGR provides that a

legal person must be dissolved *ex officio* if it damages Liechtenstein's national interests or is detrimental to the country's reputation, which might also apply in connection with offences under the Convention.

According to Article 27(3)(b) of the Convention, States Parties must be able to deny perpetrators, temporarily or permanently, the exercise of a professional or voluntary activity involving contact with children in the course of which the offence was committed. As already outlined in the comments on Article 5, paragraph 3 of the Convention, the competent court may, under § 220 StGB, prohibit persons who are engaged or intend to engage in professional or commercial activities or voluntary activities within an association or other institution, where such activities involve the upbringing, education, or supervision of minors, and who have committed a sexual offence to the detriment of a minor, from engaging in that activity or part thereof. The prohibition may be issued for a specific length of time or indefinitely.

In Liechtenstein, § 176(1) of the General Civil Code (ABGB) permits the court to revoke custody of a child in whole or in part, including legally provided rights of approval and consent, if the parents' behaviour endangers the welfare of the child. If the outright removal of the child from the child's existing surroundings is necessary for the child's protection, against the will of the guardians, and if placement with relatives or other appropriate close persons is not possible, the court must assign full or partial custody of the child to the Office of Social Services pursuant to § 176a ABGB. Articles 25-29 KJG govern placement in appropriate institutions. Using a decree issued in accordance with §§ 176 and 176a ABGB, the court may, however, limit custody only to the extent necessary to secure the welfare of the child (§ 176b ABGB).

With respect to follow-up assistance for and monitoring of convicts, probation assistance pursuant to § 50(1) StGB is mandatory if a sex offender or a sexually motivated violent offender is released conditionally, as already outlined in regard to Article 5, paragraph 3 of the Convention. Moreover, instructions may be issued pursuant to § 51 StGB and the perpetrator may be placed under court supervision if this is useful to prevent recidivism (§ 52a(1) StGB). Additionally, the Office of Social Services may issue instructions and conditions to the guardians under Article 24 of the Children and Youth Act (KJG) if the welfare of children or adolescents is at risk.

*b. Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (Article 29, Explanatory Report, paras. 203-208).*

According to § 73 StGB, foreign convictions have the same status as domestic convictions, if they refer to offences that are punishable also under Liechtenstein law and that have been handed down in proceedings complying with the principles of Article 6 of the European Convention on Human Rights (ECHR), provided that the law does not expressly require conviction by a domestic court. If an additional sentence is imposed (sentencing of a person already serving a sentence for a different offence that could have been adjudicated in earlier proceedings after the time of its commission), a foreign conviction must be considered equivalent to a domestic conviction even if these conditions are not met (§ 31 Abs. 2 StGB). In both cases, the determination of the punishment may under certain circumstances take the special aggravating circumstance set out in § 33(2) StGB into account (previous conviction for the same offence). If a sentence has already been served abroad, it must be credited pursuant to § 66 StGB to the sentence imposed in Liechtenstein. If a final sentence in criminal proceedings has already been passed abroad relating to the same fact pattern, however, those proceedings may not be carried out again in Liechtenstein.

## Question 19: Jurisdiction

*With regard to the offences referred to in question 16, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (Article 25, Explanatory Report, paras. 165-176).*

According to §§ 62 and 63 StGB, Liechtenstein criminal laws apply to all offences committed in Liechtenstein or on a Liechtenstein vessel or aircraft.

According to § 64(1)(4a) StGB, in the cases of offences defined in §§ 203(2) (sexual harassment of underage persons), 205 (serious sexual abuse of underage persons), 206 (sexual abuse of underage persons), 207 (moral endangerment of underage or adolescent persons), 208 (sexual abuse of minors), 209 (initiation of sexual contact with underage persons), 209a (immoral influencing of underage persons), 214 (arrangement of prostitution), 215a (promotion of prostitution and pornographic performances involving minors), and 219 (pornographic depictions of minors) StGB, Liechtenstein exercises extraterritorial jurisdiction irrespective of criminal responsibility in the place where the offence was committed, if the perpetrator is a Liechtenstein citizen, if the perpetrator's residence or habitual abode is in Liechtenstein, if the offence has violated other Liechtenstein interests, or if the perpetrator was a foreigner at the time of the offence, is currently in Liechtenstein, and cannot be extradited.

Liechtenstein criminal laws apply to offences other than those referred to in §§ 63 and 64 StGB that have been committed abroad, provided that the offences are also punishable under the laws of the place where they have been committed, if the perpetrator was a Liechtenstein citizen at the time of the commission or if the perpetrator acquired Liechtenstein citizenship at a later time and still holds Liechtenstein citizenship at the time the criminal proceedings are initiated (§ 65(1)(1) StGB), or if the offence was committed by a foreigner who was apprehended in Liechtenstein and for a reason other than the type or nature of the offence cannot be extradited abroad (§ 65(1)(2) StGB).

Under the criminal provisions relevant to the Convention, currently § 204 (sexual abuse of a defenceless or mentally impaired person) and § 212(1) StGB (abuse of a relationship of authority) fall within the scope of § 65 StGB. For these two offences, Liechtenstein has made a reservation in accordance with Article 25, paragraph 3 of the Convention, according to which it will not apply the provision in Article 25, paragraph 1, letter (e) with respect to jurisdiction over offences of persons who have their habitual residence in the territory of the State Party in specific cases.

For the prosecution of the offences established in accordance with Articles 18, 19, 20, paragraph 1, letter(a), and 21 of the Convention, the States Parties must ensure that their jurisdiction as regards its nationals and persons who have their habitual residence in the territory of the State Party does not depend on a report from the victim or the State of the place where the offence was committed (Article 25, paragraph 6). Because all offences under the Convention are *ex officio* offences in Liechtenstein, this provision is fulfilled.

The States Parties must ensure that their jurisdiction applies if the suspect is present on their territory and is not extradited to another State Party solely on the basis of nationality (Article 25, paragraph 7 of the Convention). In Liechtenstein, this obligation is satisfied by the provision in § 65(2)(1) StGB, according to which Liechtenstein criminal laws apply, provided that the offences are also punishable under the laws of the place where they have been committed, if the perpetrator was a Liechtenstein citizen at the time of the commission or if the perpetrator acquired Liechtenstein citizenship at a later time and still holds Liechtenstein citizenship at the time the criminal proceedings are initiated.

## Question 20: Aggravating Circumstances

*Please indicate which of the circumstances referred to in Article 28, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (Explanatory Report, paras. 194-202).*

With respect to Article 28, letters (a) to (g) of the Convention, Liechtenstein law recognises the following aggravating circumstances (§ 33 StGB):

- a) The offence seriously damaged the physical or mental health of the victim: Special aggravating circumstances are enumerated in § 33 StGB. No correspondence to Article 28, letter (a) of the Convention is included there, but serious bodily injury can be found in § 84(1) StGB as a qualification of the offences set out in §§ 200, 201, 204, 205, 206, 207, 208, and 212 StGB, the infliction of a state of agony for an extended period of time or special degradation in §§ 200 and 201 StGB, and wilful or grossly negligent endangerment of life or the occurrence of a particularly severe disadvantage for the victim in §§ 215a and 219 StGB.
- b) The offence was preceded or accompanied by acts of torture or serious violence: This provision corresponds to § 33(6) StGB (treachery, cruelty, or infliction of agony on the victim).
- c) The offence was committed against a particularly vulnerable victim: This provision corresponds to § 33(7) StGB (exploiting the defencelessness or helplessness of another).
- d) The offence was committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority: Liechtenstein criminal law recognises abuse by a family member or a person exploiting a position of authority as a separate offence (§ 212(1) StGB), but not as an aggravating circumstance. Because the enumeration of aggravating circumstances is illustrative, judges are in principle free when determining a sentence to consider as an aggravating circumstance that an offence has been committed by a family member, a person living together with the child, or a person abusing their position of authority.
- e) The offence was committed by several people acting together: This provision corresponds to § 33(9) StGB (conscious and deliberate coordination with another person).
- f) The offence was committed within the framework of a criminal organisation: This provision corresponds to § 33(8) StGB (commission as part of a criminal group).
- g) The perpetrator has previously been convicted of offences of the same nature: This provision corresponds to § 33(2) StGB (previous conviction for an act arising from the same harmful inclination).



## Question 21: Measures of protection for the child victim

- a. *Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (Article 31, para. 1, letter (a) and para. 2). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;*

According to §§ 31a(1)(3) and 31b(1) of the Code of Criminal Procedure (StPO), there is a general obligation for law enforcement authorities to inform victims as set out in Article 1(1) of the Victims Protection Act (OHG), extending to all rights that victims may assert in criminal proceedings. At the latest before their first questioning, victims must be informed about the conditions for obtaining assistance from the Victims Protection Office (§ 31b(2) StPO). This corresponds especially to the obligation incumbent upon the National Police, the Court of Justice, and the Office of the Prosecutor set out in the OHG to provide information on victims' rights (see Article 8 OHG). Victims who may have been violated in regard to their sexual integrity must additionally be informed (§ 31b(3) StPO) about their relative right to refuse to give testimony in regard to facts concerning their very personal areas of life or details about the offence if they consider doing so to be unbearable (§ 108(2)(2) StPO), their right to gentle and one-time questioning in the proceedings (§§ 115a, 197(3) StPO), and their right to exclusion of the public at trial (§ 181a(2) StPO). The information and questioning of victims must in principle be undertaken in a manner understandable to them, taking account of their age and state, including any traumatisation of the victim (see, e.g., § 107(4) StPO).

Moreover, victims have the right to be informed of the object and progress of the proceedings and to inspect the files (§ 31a(1)(3) and (4) StPO). In particular, this concerns §§ 65(1) (termination of the investigation) and 141(7) StPO (release of the accused from pre-trial detention). According to § 214(1) StPO, the judgment must be announced in a public session and in the presence of the parties immediately after it has been decided or, if this is not possible, at a declared date (§ 214(5) StPO).

Article 31, paragraph 2 of the Convention requires States Parties to ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings. This provision is fulfilled through the already outlined information obligations of the law enforcement authorities vis-à-vis victims set out in §§ 31a(1)(3) and 31b StPO. According to § 105(2) StPO, witnesses must be informed in their summons about the object of the proceedings and the interview, and victims must be informed of their essential rights in the proceedings if this has not occurred already. Moreover, victims have the right at any time to inspect the files (§ 31a(1)(2) StPO).

- b. *Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (Article 31, para. 1, letter (c));*

According to Article 3(1)(d) of the Children and Youth Act (KJG), children have the right to be heard in regard to decisions that affect them, especially in judicial and administrative proceedings, to the extent they are able to express their own opinion, and to have their opinion taken into account in accordance with their age and maturity. Under the provisions of the Code of Criminal Procedure (StPO), victims have the right to be heard regarding their claims (§ 31a(1)(7) StPO) and, as private participants, to request the taking of evidence (§ 32(2)(1) StPO). It does not make a difference whether the victim shares views directly or



through a representative, because the representative exercises the same procedural rights as the represented person, unless otherwise specified by law (§ 34(1) StPO).

Before issuing a decree concerning the care or education of a child, such as removal from the child's surroundings for the purpose of protection, the court shall hear the child in person if possible (§ 178b of the General Civil Code, ABGB).

c. *What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (Article 31, para. 1, letter (d));*

According to § 31a(2) StPO, victims are entitled pursuant to Articles 12 to 14 of the Victims Assistance Act to have the Victims Assistance Office provide counselling and care, accompany them to hearings in the investigation proceedings and at trial, and represent them in the exercise of their procedural rights. They also receive translation assistance (§ 31a(1)(5) StPO), and under certain circumstances they are entitled to legal aid in the form of legal counsel (§ 32(3) StPO).

d. *Please describe the measures taken to protect the privacy, the identity and the image of child victims (Article 31, para. 1, letter (e));*

§ 31c StPO takes account of the special need to protect the privacy of injured persons in the criminal proceedings. § 31c(1) StPO imposes a special duty of care on the law enforcement authorities towards the injured persons in order to prevent encroachment upon their very personal areas of life. In particular, this concerns the circulation of photographs and information to persons that might lead to broader disclosure of their identity. Under §§ 31c(2) and 30a StPO, accused persons and their representatives, injured parties, private prosecutors, and private participants and their representatives are prohibited from disclosing information obtained in the course of the prosecution, if the disclosure would damage confidentiality interests of other participants in the proceedings or third parties and if those interests are worthy of protection.

In order to protect privacy, § 108(2)(2) StPO grants the victims of offences of sexual violence a relative right to refuse testimony, i.e. they are not required to answer questions concerning details of the offence if they believe that doing so would be unbearable, unless their statement is indispensable for the object of the proceedings. As a further instrument for the protection of the privacy of the witness, the court may be supplied with a different suitable address for summonses instead of the residential address in accordance with § 119(1) StPO. Additionally, more detailed questions concerning the person must be asked in a way that the information is not disclosed to the public, in accordance with the requirement of discretion. Questions concerning the circumstances of the very personal areas of life of the witness may not be asked, unless doing so appears absolutely necessary in the particular circumstances of the case (§ 119(2) StPO).

§§ 181a to d StPO govern the exclusion of the public from the trial. This possibility is available if circumstances relating to the sexual sphere must be discussed in a way that the participants cannot be expected to do in front of a larger group of person than is absolutely necessary (§ 181a(1) StPO), or if circumstances in the personal areas of life or confidentiality of the accused, witnesses, or third parties are discussed (§ 181a(2) StPO). Victims have the right to request exclusion of the public. According to § 181(4) StPO, television and radio recordings and transmissions as well as video recordings and photography of hearings before the court are impermissible so as to protect the persons participating in the trial. Article 39 of the Media Act (*Mediengesetz*, LGBl. 2005 No. 250) contains an analogous prohibition.

Furthermore, the possibility exists to limit inspection of the files by the accused, so that personal data or circumstances allowing conclusions to be made about the very personal life situation of the endangered person can be excluded from inspection (§ 30(2) StPO).

- e. *Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (Article 31, para. 1, letter (f));*

In order to protect witnesses, § 119a StPO provides the possibility for witnesses in need of protection not to disclose their personal circumstances to the court and not to answer questions that concern their personal circumstances. To obtain this protection, witnesses must show probable cause that a substantial situation of danger exists. With the amendments to the Police Act and the Criminal Code that entered into effect in July 2014, new rules on extrajudicial witness protection and a "minor leniency programme" were introduced, further strengthening witness protection and possibilities for prosecution.

- f. *Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (Article 31, para. 1, letter (b));*

According to § 141(7) StPO, victims of domestic violence as well as victims whose sexual integrity may have been compromised by the offence must be informed of the release of the accused before the judgment in the first instance has been issued, with an indication of the reasons and the less severe measures imposed; other victims are informed only if a request has been received.

- g. *Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (Article 31, para. 1, letter (g));*

§ 115a(2) StPO expressly stipulates that an encounter between the victim and the accused should be avoided if possible. It is the responsibility of the investigating judge to ensure that no encounter takes place, especially by way of appropriate and sensitive management of the summonses. According to § 115a(3) StPO, persons who at the time of questioning have not yet reached the age of 18 must necessarily be questioned in a gentle manner and only once if they have been injured in their sexual sphere by an offence. Other minors must be questioned gently if they or the Office of the Public Prosecutor so request, or if the judge believes that gentle questioning is necessary, especially in consideration of the victim's young age or the victim's emotional state or health. According to § 115a(2) StPO, gentle questioning means that the parties and their representatives follow the interview of the child witness by means of technical equipment for audio and video transmission and are able to exercise their right to question in that way. Gentle questioning is not limited to the preliminary proceedings; according to § 197(3) StPO, it can be extended to the trial as well. After gentle questioning, the questioned person is released from the obligation to give testimony for the remainder of the proceedings (§ 107(1)(2) StPO).

- h. *Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (Article 31, para. 3).*

According to § 32(1) StPO, the victim has the right to join the criminal proceedings on the basis of the victim's claims under private law and thus to become a private participant in the proceedings. Otherwise, a civil claim is also available. Victims as private participants – to the

extent they are not represented by the Victims Assistance Office – may avail themselves of legal aid in accordance with Article 25(3) of the Victims Assistance Act (OHG) (§ 32(3) StPO). Legal aid according to Article 25(3) OHG provides that victims and their family members are entitled to the free provision of a lawyer as legal aid in proceedings under the Victims Protection Act as well as in judicial and other administrative proceedings arising from the offence, under the conditions set out in §§ 63 et seq. of the Code of Civil Procedure (*Zivilprozessordnung*, ZPO). For that purpose, they must in particular be unable to pay for the costs of the proceedings without endangering their livelihood (§ 63(1) ZPO). If the preconditions are met, the Court of Justice issues a ruling, whereupon the Chamber of Lawyers appoints legal counsel for the victim.

## **Question 22: Investigations and criminal measures to protect the child victim**

- a. *What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (Article 30, para. 2, Explanatory Report, paras. 211-215);*

*Victims' rights in Liechtenstein have been strengthened significantly with the revisions of the Code of Criminal Procedure in the years 2004 (LGBl. 2004 No. 236) and 2011 (LGBl. 2012 No. 26) as well as with the Victims Assistance Act (OHG) and the establishment of the Victims Assistance Office. Consideration of the age and state of the victim when information is provided to the victim (§ 107(4) StPO), gentle questioning (§§ 115(2) and (3), 197(3) StPO), possible assignment of specialists to question the victim (§ 115a(2) StPO), involvement of a person of trust (§ 115(3) StPO), release from the obligation to testify, provided there has been a prior adversarial opportunity to question the victim (§ 107(1)(2) StPO), the right to representation, including by the Victims Protection Office (§§ 31a(1)(1) and 31a(2), 34(1) StPO), and the relative right to refuse testimony (§ 108(2)(2) StPO) offer far-reaching protection from further traumatising of child victims. With respect to the offer of support measures in Liechtenstein, please refer to the comments on Article 11 of the Convention.*

- b. *Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (Article 32, Explanatory Report, para. 230).*

All offences covered by the Convention are *ex officio* offences in Liechtenstein and may therefore be prosecuted independently of any report or statement by the victim.

- c. *Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (Article 33, Explanatory Report, paras. 231-232);*

Statutes of limitation are governed by § 57 StGB. They are determined by the imposable sentence and thus indirectly by the gravity of the offence. In all cases of offences against sexual self-determination or other sexual offences, § 58(3)(3) StGB stipulates that the period of limitation does not begin until the victim reaches the age of 18.

- d. *Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (Article 31, para. 4). Please also describe under which conditions it is possible;*

If parents endanger the welfare of the child, the court may revoke their custody in whole or in part according to § 176 of the General Civil Code (ABGB). It is also possible to revoke only their legal representation of the child if a parent or the parents continue to fulfil their other obligations (§ 176(2) ABGB). The Victims Assistance Office ensures representation of the victim by authorised representatives in court (Article 12(2) OHG). As outlined in the section above, victims who are minors in principle also have the right to claim legal aid in accordance with Article 25, paragraph 3 OHG. The court then has the possibility according to Article 5(2)(a)(1) of the Non-Contentious Proceedings Act (*Ausserstreitgesetz*, AussStrG; LGBl. 2010 No. 454) to appoint a legal representative (curator) in non-contentious proceedings, which include welfare proceedings for children according to Article 1(2)(a) AussStrG, if the legal representative of a party is prohibited from representation due to a conflict of interest.

- e. *Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (Article 31, para. 5). Please specify under which conditions, if so required;*

When fulfilling its responsibilities, which include counselling and support in criminal proceedings, the Victims Assistance Office consults other assistance organisations and coordinates the provision of victims assistance (Article 9(2) OHG). For this purpose, service agreements are concluded. Accordingly, victims may designate a recognised victims protection institution to represent them, which includes counselling and support (§ 34(1) StPO).

- f. *Please describe under which circumstances the use of covert operations is allowed in relation to the investigation of the offences established in accordance with the Convention (Article 30, para. 5);*

The legal provisions in the Police Act and the Code of Criminal Procedure facilitate effective investigations and prosecutions of criminal offences covered by the Convention. The Police Act empowers the National Police to engage in covert investigative measures for the purpose of warding off danger and preventing crimes (Article 34a of the Police Act). In the context of prosecution, covert investigative measures such as observation, the use of undercover investigators, telephone and internet surveillance, bogus transactions, house searches, etc., may be ordered by the competent judge of the Court of Justice and carried out by the National Police where there is suspicion of sexual abuse of minors (§ 91a to 104c StPO). The National Police has specialised investigators at its disposal as well as the necessary technical equipment.

- g. *Please also describe what techniques have been developed for examining material containing pornographic images of children (Article 30, para. 5).*

To identify victims of child pornography, the National Police works together with the Swiss Federal Office of Police on the basis of the Trilateral Police Cooperation Treaty between Liechtenstein, Switzerland, and Austria (LGBl. 2001 No. 122). To identify a victim of child pornography, the National Police sends the material to experts of the Federal Criminal

Police, who are able to access the International Child Sexual Exploitation Database (ICSE DB) at the General Secretariat of Interpol. The secured images are stored in the database and compared with the images available worldwide. It is immediately evident whether the victim is known anywhere in the world and where information may be available on the current status of investigations.

### **Question 23: Child friendly interviewing and proceedings**

a. *Please describe how interviews (Article 35) with child victims are carried out, indicating in particular whether:*

- *they take place without unjustified delay after the facts have been reported to the competent authorities;*

The National Police processes cases involving child victims as quickly as possible in order to minimise the burden on the child.

- *they take place, where necessary, in premises designed or adapted for this purpose;*

The National Police has an interview room set up especially for gentle questioning with video recording and a one-way mirror; this room is also used for questioning children and adolescents. The Office of Social Services has a child-friendly interview room, which is also used for police questioning by child psychologists. Additionally, the court has a child-friendly room to carry out gentle questioning.

- *they are carried out by professionals trained for this purpose;*

As already mentioned, minors who are victims of sexual offences are questioned by specially trained investigators of the National Police and/or by an expert appointed by the competent judge (§ 115a(2) StPO).

- *the same persons are, if possible and where appropriate, conducting all interviews with the child;*

The right to gentle questioning in combination with the right to refuse further testimony ensures that only one interview with the victim takes place.

- *the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;*

The right to gentle questioning includes release from the obligation to testify in accordance with § 107(1)(2) StPO for victims who are not yet 18, if the parties had the opportunity to participate in the prior questioning. Accordingly, child victims are questioned by the court only once about the offence, thus avoiding psychological stress due to repeated questioning.

- *the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.*

According to § 115(3) StPO, a person of trust of the child must be included *ex officio* when a minor is questioned. The Victims Assistance Office may also take on the responsibility to accompany the child victim (§§ 31a(2) and 115(2) StPO, Article 12(2) OHG).

b. *Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;*



The provisions on gentle questioning specify that audio or video recordings of the interview may be presented at trial under the conditions set out in § 198a(1)(4) StPO (legitimate refusal of testimony; opportunity for the parties to participate in judicial questioning) (§ 115a(4) StPO).

c. *Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (Article 36).*

Article 36, paragraph 2 of the Convention requires the States Parties to provide the possibility for the court to order that the final hearing take place without the presence of the public and to allow the victim to be heard in the courtroom without being present, notably through the use of appropriate communication technologies. As already outlined, exclusion of the public at trial is possible *ex officio* or on application pursuant to § 181a StPO. The likewise outlined provisions on gentle questioning (§§ 115a(2) and (3), 197(3) StPO) allow the victim to be questioned without being present in the courtroom, using technical provisions for audio and video transmission.